

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Warren R. Montgomery, PA-C)
) Docket No. MPN 129-1110
)

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Attorney General William H. Sorrell, and Warren R. Montgomery, PA-C and stipulate and agree as follows:

1. Warren R. Montgomery, PA-C (“Respondent”) holds Vermont physician assistant license No. 055.0030984. Respondent was first licensed as a physician assistant on June 8, 1992.
2. Jurisdiction in these matters vests with the Vermont Board of Medical Practice (“Board”), pursuant to 26 V.S.A. §§ 1353-61, 1733-39, 3 V.S.A. §§ 809-814, and other authority.

Findings of fact

3. The Board opened the above-captioned matter upon learning of a patient’s adverse medical outcome from a Burlington Free Press newspaper article.
4. On September 13, 2008 at approximately 8:30 a.m., a patient presented at the Bellows Falls Urgent Care Center with a chief complaint of shortness of breath.
5. The patient was examined by a nurse who gathered vital signs and other data. The nurse’s examination revealed that the patient’s heart rate

was occasionally irregular.

6. Based upon the nurse's examination results, Respondent ordered a 12-lead electrocardiogram ("EKG").

7. The nurse performed the 12-lead EKG and gave the printed test results to Respondent when he examined the patient. The EKG printout indicated a ST elevation myocardial infarction.

8. The EKG printout did not include a patient name and was dated June 15, 2007 at 15:00:52. The EKG printout did not document the results of the EKG administered to the patient on September 13, 2008.

9. Respondent did not recognize the EKG had information indicating it was an EKG from another date.

10. Respondent's physical examination of the patient did not reveal evidence of shortness of breath, diaphoresis, abnormal heart sounds or respiratory distress. Her blood pressure was 164 over 116 and her heart rate was 105. When the nurse examined the patient earlier, her blood pressure was 133 over 90 and her heart rate was 63.

11. The patient was placed on a 3-lead cardiac monitor and the printed results showed she was in atrial fibrillation.

12. Based upon the EKG results and the patient's increased blood pressure and heart rate, Respondent's clinical impression was acute coronary syndrome, acute anteroseptal myocardial infarction.

13. Therefore, Respondent ordered the patient to be transferred to

the Springfield Hospital Emergency Department at approximately 10:00 a.m. for further evaluation and treatment.

14. After being examined by other providers at Springfield Hospital, the patient was treated with thrombolytics and heparin and suffered an intracranial hemorrhage.

Conclusions of law

15. It is unacceptable medical practice for a licensee to fail to recognize that an EKG printout shows a date and time other than the date and time the EKG was administered to a patient and to use it to diagnose that patient. Such conduct may constitute the gross failure to use and exercise that degree of care, skill, and proficiency which is commonly exercised by the ordinary skillful, careful, and prudent physician assistant engaged in similar practice under the same or similar circumstance in violation of 26 V.S.A. § 1354(a)(22).

16. Consistent with Respondent's cooperation with the Board, he agrees that if the State were to file charges against him it could satisfy its burden at a hearing and a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. §§ 1354(a)(22).

17. Respondent agrees that the Board may enter as its facts and/or conclusions in this matter Paragraphs 1 through 14, above, and further agrees that this is an adequate basis for the Board actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth

in this agreement.

18. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Board, he has determined that he shall enter into the instant agreement with the Board. Respondent enters no further admission here, but to resolve this matter without further time, expense, and uncertainty, he has concluded that this agreement is acceptable and in the best interest of the parties.

19. Respondent acknowledges that he is knowingly and voluntarily entering into this agreement with the Board. Respondent acknowledges and agrees that at all time and in all communications and proceedings related to this matter before the Board, he has had the right to be represented and advised by counsel. Respondent has carefully reviewed and considered this Stipulation and Consent.

20. Respondent agrees and understands that by executing this document he is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, and to offer evidence of his own to contest any allegations by the State.

21. The Board and Respondent agree that upon their execution of this Stipulation and Consent Order and pursuant to the terms herein, the above-captioned matter shall be administratively closed by the Board. Thereafter, the Board will take no further action as to this matter absent non-compliance

with the terms and conditions of this document by Respondent and except as otherwise provided herein.

22. This Stipulation and Consent Order is conditioned upon its acceptance by the Board. If the Board rejects any part of this document, the entire agreement shall be considered void. Respondent agrees that if the Board does not accept this agreement in its current form, he shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the Board rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, and it shall be without prejudice to any future disciplinary proceeding and the Board's final determination of any charge against Respondent.

23. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in his permanent Board file, shall constitute an enforceable legal agreement, and may and shall be reported to other licensing authorities, including but not limited to the Federation of State Medical Boards Board Action Databank, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank.

24. In exchange for the actions by the Board, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

25. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, it may enter an order implementing the terms and conditions herein.

Order

Wherefore, based on the foregoing Findings of Fact, Conclusions of Law, and the consent of Respondent, it is hereby ordered that:

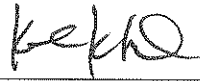
- a. Respondent shall successfully complete a continuing medical education course approved by the Committee or the Board that primarily addresses medical error prevention. Respondent shall complete the course within one year of the entry of the Stipulation. Upon Respondent's successful completion of the class, he shall provide the Committee with official proof thereof.
- b. Respondent shall pay an administrative penalty of \$1,000.00 to the Board within thirty days of the entry of the Stipulation.
- c. Respondent is hereby reprimanded for the conduct set forth herein.

Dated at Montpelier, Vermont, this 20th day of February, 2013.

STATE OF VERMONT

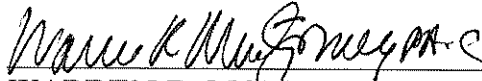
WILLIAM H. SORRELL
ATTORNEY GENERAL

by:



Kurt A. Kuehl
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

Dated at Caulford, Vermont, this 28th day of February, 2013.



WARREN R. MONTGOMERY, PA-C
Respondent

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

AS TO WARREN R. MONTGOMERY, PA-C
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Peter Throumoulopoulos, MD
[Signature]

James M. Gallant, M.D.
[Signature]

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DATED: March 6, 2013

ENTERED AND EFFECTIVE: March 6, 2013